85-33

Supreme Court, U.S.
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No. _____

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1985

DONALD EDGAR JOHNSON,

Petitioner,

-vs-

CARL ALFRED JOHNSON, SR.,
A/K/A CARL ALFRED JOHNSON,
RICHARD GORDON JOHNSON, And
CARL ALFRED JOHNSON, JR.,
Jointly And Severally,

Respondents.

On Writ Of Certiorari
To The Supreme Court Of Michigan

EMERGENCY

PETITION FOR WRIT OF CERTIORARI

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14pp

QUESTIONS

1. WAS DEFENDANTS-APPELLEES' COUNSEL A "FEDERAL TAX EVADING CONFLICTING INTERESTS" COUNSEL?

The Michigan Supreme Court did not answer. Petitioner contends the answer should be "yes".

2. WHERE BONA FIDE INDIGENT PLAINTIFF-APPELLANT ACTED WITHIN A REASONABLE TIME IN FILING SWORN ALLEGATIONS, INTER ALIA, THAT DEFENDANTS-APPELLEES AND THEIR FEDERAL TAX EVADING CONFLICTING DEBTOR-CREDITOR INTERESTS COUNSEL PROCURED AND 9½ YEARS PROLONGED THE TRIAL COURT DISMISSAL BY FRAUDS UPON THE COURTS AND APPELLATE COURTS MANDATED THAT PLAINTIFF FILE AN INDEPENDENT ACTION, SHOULD TRIAL COURT ACCEPT FEE AND BELATEDLY FILE, RETROACTIVE TO ATTEMPTED FILING DATE, PLAINTIFF-APPELLANT'S TIMELY GRIEVANCE/REQUIRED GCR 528.3 INDEPENDENT ACTION?

The Michigan Supreme Court did not answer. Petitioner contends the answer should be "yes".

3. DID PLAINTIFF-APPELLANT TOLL A 2 YEARS STATUTE OF LIMITATIONS CONCERNING A CLAIM WHEN HE TIMELY ATTEMPTED TO PROPERLY FILE HIS REQUIRED INDEPENDENT ACTION, CERTIFIED MAILED COPIES TO EACH DEFENDANT, AND SOUGHT APPELLATE COURTS' MANDATING TRIAL COURT TO FILE THAT ACTION?

The Michigan Supreme Court did not answer. Petitioner contends the answer should be "yes".

4. IS IT LEGAL FOR 3 RICH MEN, THEIR INFLUENTIAL CONFLICTING INTERESTS LAW FIRM, AND THEIR REALTOR TO TAKE A CITIZEN'S TOTAL MONEY AND PROPERTIES, 2 LIMITED POWER OF ATTORNEYS, 6 YEARS' WAGES, COURT COSTS, AND CONSTITUTIONAL RIGHTS OF DUE PROCESS-EQUAL PROTECTION-PARENTAL RIGHTS-JUST COMPENSATION UNDER FALSE PRETENSES, BREACH OF CONTRACTS, FRAUDULENT CONVERSION, LIBEL & SLANDER, AND FRAUDS UPON THE COURTS -- WHILE USING HIM AND HIS ASSETS TO EXECUTE-COVERUP A $25,000-$50,000 FEDERAL TAX EVASION AND HIDDEN OWNERSHIP OF A LARGE NIGHTCLUB/BINGO PARLOR/FLEA MARKET?

The Michigan Supreme Court did no answer. Petitioner contends the answer should be "no".

5. CAN A 1964-1972 TOTALLY WIPED OUT-STILL FINANCIALLY EXHAUSTED 62 YEARS OLD-5 YEARS COLLEGE TRAINED-EX U.S. ARMY OFFICER PLAINTIFF-APPELLANT BE DEPRIVED OF A TRIAL COURT HEARING OF HIS TIMELY MOTION OR A TRIAL COURT FILING OF HIS TIMELY APPELLATE COURTS-MANDATED INDEPENDENT ACTION FOR A NEW TRIAL ON GROUNDS OF OPPONENTS' SEVERAL SIGNIFICANT FRAUDS UPON THE STATE AND FEDERAL COURTS DURING THIS 12 YEARS NONSTOP CIVIL CASE WHERE HE, WITH AND WITHOUT AN ATTORNEY, WAS DENIED (1) A JURY, (2) A FAIR TRIAL, (3) WAIVER OR SUSPENSION OF APPEAL COSTS, (4) A HEARING TO SETTLE FACTS, (5) A TIMELY APPEAL OF RIGHT, (6) A DELAYED APPEAL OF RIGHT THOUGH HE BELATEDLY EARNED THE $5,000 AND FILED THE REQUIRED FULL TRANSCRIPT, (7) DISQUALIFICATION OF TRIAL JUDGE AND OPPOSING FEDERAL TAX EVADING-FOR-SECRET-CLIENTS CONFLICTING INTERESTS COUNSEL, AND (8) ADDING HIS ASSISTANT ATTORNEY, A COURT STENOGRAPHER, AND HUGE INFLUENTIAL OPPOSING COUNSEL AS NECESSARY DEFENDANTS -- AND WHERE THE HIGHER COURTS NEVER ONCE TOOK

DELIVERY OF THE MEANINGFUL RECORD OF THE CASE FOR A MEANINGFUL REVIEW -- AND WHERE A COURT OF APPEALS 3 JUDGES PANEL REFUSED TO EVEN ALLOW THEIR NAMES TO APPEAR ON THEIR ORDER OF DEPRIVATION -- AND WHERE THE STATE SUPREME COURT REFUSED JURISDICTION?

The Michigan Supreme Court did not answer.
Petitioner contends the answer should be "no".

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In The
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DONALD EDGAR JOHNSON,

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-vs-

CARL ALFRED JOHNSON, SR.,
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RICHARD GORDON JOHNSON, And
CARL ALFRED JOHNSON, JR.,
Jointly And Severally,

Respondents.

EMERGENCY PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF MICHIGAN

Donald Edgar Johnson emergency petitions in pro per for a writ of certiorari to review the March 28, 1985 and June 25, 1985 judgments of the Supreme Court of Michigan which declined to review the five questions presented.

REPORT

Said judgment is reported at Johnson v Johnson (1985), 422 Mich 853.

JURISDICTION

The judgment sought to be reviewed was dated and entered on 3/28/85 and petitioner's motion for reconsideration was denied and entered on 6/25/85. The statutory provision believed to confer on this Court jurisdiction to review this cause by writ of certiorari is 28 U.S.C. § 2101 (c) (f).

> "Supreme Court; time for appeal or certiorari; docketing; stay . . .
> (c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree. . . . (f) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court.
> The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period of time allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party

may sustain by reason of the stay." 28 U.S.C. § 2101 (c) (f).

CONSTITUTIONAL PROVISIONS STATUTES AND REGULATIONS INVOLVED

"Relief from Judgment or Order . . . This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding . . . or to set aside a judgment for fraud upon the court. Writ of coram nobis, coram vobis, auditas querela, and bills of review and bills in nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action." (Mich. GCR 1963, 528.3). (Emphasis added).

"New Trials; Amendment of Judgments. . . Time for Motion. A motion for a new trial made under this section shall be served not later than 20 days after the entry of the judgment. (Mich. GCR 1963, 527.2).

"Congress shall make no law . . . respecting the right of the people . . . to petition the Government for a redress of grievances." (Const. Amend. 1).

"No person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation." (Const. Amend. 5)

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." (Const. Amend. 9).

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens

of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." (Const. Amend. 14).

"Liens For Taxes If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the United States upon all property and rights to property, whether real or personal, belonging to such person." (26 U.S.C. § 6321).

"Release Of Lien Or Discharge Of Property . . . Part payment; interest of United States valueless -- Subject to such regulations as the Secretary or his delegaste may prescribe, the Secretary or his delegate may issue a certificate of discharge of any part of the

property subject to the lien if . . . the Secretary or his delegate determines at any time that the interest of the United States in the part to be so discharged has no value. In determining the value of the interest of the United States in the part to be so discharged, the Secretary or his delegate shall give consideration to the value of such part and to such lien thereon as have priority over the lien of the United States." [Internal Revenue Code 1954 § 6325 (b) (2) (B)].

"U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
DETROIT, MICHIGAN
December 26, 1962 . . .

Mr. V.S. Laurin, Jr.
Landman, Grimm, Bradbury & Laurin
Attorneys at Law
. . . Muskegon, Michigan
In re: Application for Discharge of Property from Federal Tax Lien, Section 6325 (b)(2)(B), Internal Revenue Code of 1954. Taxpayer: Dominic & Irene DeGiovanni d/b/a/Vista Grill
Dear Mr. Laurin:

The application for discharge of property from Federal tax lien which you submitted discloses that the subject real estate was sold to the

above-named individuals on land contract dated December 24, 1957. This land contract was subsequently declared forfeited by publication and your clients regained possession of the premises before the Circuit Court Commissioner, Muskegon County, Michigan.

In the case of United States V. Brosnan, et al., and Bank of America National Trust and Savings Association V. United States(1960) 363 U.S. 237, the Supreme Court of the United States held that, where under state law junior liens are discharged by a foreclosure sale, such proceeding also discharged junior Federal tax liens outstanding against the property involved. Since it is the opinion of the Internal Revenue Service that the principle set forth in the Bank of America case (a non judicial proceeding) is applicable to land contract foreclosures by publication, the Government's interest in the property described in the application was terminated upon expiration of the statutory period for redemption following the land

contract forfeiture proceedings.

The Internal Revenue Code of 1954 does not authorize the Internal Revenue Service to issue certificates of discharge of property from Federal tax lien under the circumstances cited in the application. Accordingly, a certificate of discharge will not be issued in this case.

Very truly yours,
/s/ R.I. Nixon,
District Director"

(12/26/62 I.R.S. Directive concerning $25,000-$50,000 1960 Federal tax liens on nightclub land/building herein). (Emphasis added).

"Periods Of Limitation On Criminal Prosecutions. No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years --

(1) for offenses involving the defrauding or attempting to defraud the United States or

any agency thereof, whether by conspiracy or not, and in any manner;

(2) for the offense of willfully attempting in any manner to evade any tax or the payment thereof,

(3) for the offense of willfully aiding or assisting in, or procuring counseling, or advising, the preparation or presentation under, or in connection with any matter arising under the internal revenue laws, of a false or fraudulent return, affidavit, claim or document (whether or not such falsity or fraud is the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) . . ." (Internal Revenue Code 1954 § 6531). (Emphasis added).

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the

jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress." (42 U.S.C. § 1983).

"If two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws; (3) If two or more persons in any State or Territory conspire <u>or go in disguise on the highway</u> or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal

privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such state or Territory the equal protection of the laws . . . in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators." [42 U.S.C. § 1985 (2)(3)]. (Emphasis added).

"If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who

is liable for the claim from the knowledge of the person entitled to sue on the claim the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations. . . ." (Mich. Compiled Laws Annotated 600.5855). (Emphasis added).

" Any person convicted of conspiring to commit a legal act in an illegal manner shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than $10,000 or both such fine and imprisonment in the discretion of the court." (Mich. Compiled Laws annotated 750.157a).

STATEMENT

A F F I D A V I T

State of Michigan }
County of Muskegon } SS

DONALD EDGAR JOHNSON, being first duly sworn, says: That he is Petitioner herein, Plaintiff-Appellant in this nonstop 1973 civil case, and victim of the severe wrongdoings described in the five questions presented.

Between 1964 and 1973, defendants' "Landman" law firm represented both plaintiff and defendants joint venture Buyers plus Sellers of nightclub land/building with its $25,000-$50,000 federal liens and hidden owner, an active Michigan corporation, at the venture's outset. It evaded said liens by conspiring with defendants and their realtor to obtain plaintiff's Power of Attorney to purchase and disguising him as a sole, not joint, purchaser and, after date of purchase, registering in the

county Register of Deeds a pretense that the liens were invalid by virtue of a decision of the I.R.S. District Director which, in fact, said no such thing.[1/] Plaintiff relied on defendants' lawyer, Albert J. Engel, outside of the Landman law firm, who wrote plaintiff to "ignore the said liens" and proceed with

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1/ Admitted Trial Exhibit 229 reads in part: "As such attorney at law, he filed an application for discharge of property from federal tax lien under Section 6325(b)(2)(B) Internal Revenue Code of 1954, taxpayer Dominic DeGiovanni . . . That as a result of said application he received a letter from R.I. Nixon District Director, a copy of which is attached hereto, and made a part of this affidavit. . . which property is presently titled in the names of Lee Christensen, Walter F. Clark, Jr., Anthony Scalici and Herbert M. Biermacher. This affidavit is made for the purpose of placing on record notice of the invalidity of the aforesaid federal tax liens. . .

> Landman, Grimm, Bradbury & Laurin, Attorneys at Law . . . Muskegon, Michigan. In re: Application for Discharge of Property from Federal Tax Lien, Section 6325 (b) (2) (B), Internal Revenue Code of 1954. Taxpayer: Dominic & Irene DeGiovanni . . . Accordingly, a certificate of discharge will not be issued in this case. Very truly yours, /S/ R.I. Nixon, District Director.'" (Emphasis added).

the 11/5/64 purchase in plaintiff's name on a 15 years land contract. And defendants and their Landman law firm used plaintiff and his substantial assets to carry out their federal tax evasion through a 6 years statute of limitations, during which I.R.S. could have criminally prosecuted, by promising plaintiff fair equity in a corporation to be formed for his investing his hours and dollars in said 11/5/64 purchase. And defendants caused plaintiff to lose his invested phono records-music publishing invested assets worth up to $1,000,000. Then defendants and their Landman law firm took the entire remaining joint venture assets by frauds upon the county trial court that "defendants had a valid first mortgage on nightclub land and were 3 years Money Lenders to plaintiff" rather than "defendants had no valid mortgage on nightclub land and were 15 years phono records-music publishing nightclub purchase joint venturers with plaintiff". And plaintiff who had invested his all in said

joint venture was forced to be on public welfare while mitigating damages 1970-1972 where his 10 years full custody minor children were permanently interstate kidnapped by California Department of Social Services investigating people who had been fraud upon by defendants and Landman law firm lie that plaintiff had foolishly purchased a too-large nightclub all by himself and became undeserving of ample funds that his ex-wife could provide.

Between 1973 and 1983, defendants and their Landman law firm procured and 9½ years prolonged their illgotten 12/9/74 dishonest county trial court Dismissal of plaintiff's 1973 civil suit by frauds upon the State and Federal courts. (Bona fide indigent plaintiff attempted to remove causes to the appropriate U.S. District Court which was also fraud upon by defendants and Landman law firm lies). And the county trial court declined jurisdiction of plaintiff's federal tax evasion charge. And $450-for-30-hours-weekly American Federation of Musicians-affiliated plaintiff was on Muskegon's

public welfare, 1975-1978, thanks to frauds upon the courts. And, after bootstrapping himself off public welfare, piecemeal filing courts-required full $5,000 transcript of trial court proceedings, plaintiff filed, in 1982, his application for leave for a delayed appeal of right of said 1974 Dismissal.

In 1983 as Michigan state appellate courts were still pondering plaintiff's emergency application for a delayed appeal of right, plaintiff, assisted by an attorney, filed an emergency motion for a new trial on grounds of defendants and their Landman law firm's frauds upon the courts persuant to GCR 1963, 528.3. (App. 28a). But defendants' Landman law firm, by way of an unsigned letter to trial court, opposed the motion as if trial court had no more jurisdiction in the matter, the full appellate process had been exhausted, and the motion came too late. Though plaintiff immediately objected, trial court denied a hearing of the motion and plaintiff filed his emergency request which hinted that the matter

might be brought to this Court while including an affidavit of 12 frauds upon the courts. (App. 49a). And the Michigan Supreme Court re-denied plaintiff's emergency application for a delayed appeal of right by declining jurisdiction. Plaintiff filed a Petition for Removal to the appropriate U.S. District Court. The Landman law firm split into two separately named law firms with one just upstairs from the other. And, as plaintiff opposed Landman law firm's motion to dismiss, he proposed a U.S. District Court judgment. (App.55a). And the Michigan Court of Appeals mandated that "more than one year having elapsed from the date of judgment, plaintiff is required to file an independent action, GCR 1963, 528.3." (App 6a).

In 1984, U.S. Court of Appeals for the Sixth Circuit Judge Albert J. Engel's U.S. District Court, west Michigan, denied plaintiff's 1983 Petition for Removal.[2/]

2/ Judge Engel is the 1965 attorney who told plaintiff to ignore the federal liens. (App 22a).

And Michigan Supreme Court declined jurisdiction of whether plaintiff could have a hearing of his 1983 motion for a new trial on ground of frauds upon the courts or be required to file an independent action. And said U.S. District Court read and refused to file plaintiff's independent "Complaint For Injunctive Relief And Damages For Fraudulent Concealment Of A U.S. Agency's Claim Or Identity Of Persons Liable". (App.7a). And the county trial court read and refused to file plaintiff in pro per and his assistant attorney's "required" 2/21/84[3/] independent action without specific instructions from a higher court while refusing to acknowlege that defendants' Landman law firm was a "federal tax evading conflicting debtor-creditor interests" counsel. (App. 12a). And plaintiff raised a federal question by arguing

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3/ 2/21/84 was within 2 years of plaintiff's 1st discovery of proofs (the well-hidden complete abstracts of nightclub land) of defendants and their Landman law firm's frauds and using plaintiff for 6 years to evade $25,000-$50,000 federal taxes and coverup.

that not even the U.S. Congress can make a law respecting the right of the people to petition the government for a redress of grievances. Const. Amend. 1. And the Michigan Court of Appeals' unknown judges refused to reverse trial court's refusal to file plaintiff's "required" independent action. (App. 13a).

In early 1985, defendants' Landman law firm once again slightly changed its name since its 3/8/65 filing of said federal tax evasion -- this time from "Landman, Luyendyk, Latimer, Clink & Robb" to "Landman, Latimer, Clink & Robb". And the state court of last resort, the Supreme Court of Michigan, declined jurisdiction of the 5 questions presented herein while refusing to stay proceedings or transmit the record to this Court at plaintiff's request.

Presently, plaintiff has custody of the evidence presented at the 1974 trial because of trial court's 1983 order on heels of the record having been muddied and said evidence "lost" for months at a time in the county building.

The complete record of this 1973 case has never been seen by anyone other than trial court personnel, defendants' Landman law firm, and plaintiff.

Further, affiant sayeth not.

Donald Edgar Johnson

Subscribed and sworn to before me
and seal affixed on this 29th day of August, 1985.

Notary Public, Muskegon County, Michigan.
My Commission expires _____.

REASON WHY THIS WRIT SHOULD BE ALLOWED

This writ should be allowed because a State court of last resort plus the appropriate U.S. District Court have erroneously failed to uphold the U.S. Constitution by taking jurisdiction of important questions of federal law which, if not settled by this Court, will promote and perpetuate special interest groups' wrongfully procuring substantial federal and private property by procuring and longtime

prolonging unconscionable court decisions that deny basic fundamental Constitutional rights by frauds upon the courts!

As to the 5 questions presented:

1. DEFENDANTS-APPELLEES' COUNSEL WAS A "FEDERAL TAX EVADING CONFLICTING INTERESTS" COUNSEL.

Said counsel was the same law firm partnership, with a slightly different name, that 8/20/64-12/4/64 represented conflicting debtor-creditor, Buyers-Sellers, interests at the outset of all parties' phono records-music publishing-nighclub purchase joint venture when it represented plaintiff and defendants Buyers and Sellers of the nightclub that was purchased on 11/5/64 by way of a 12-15 years land contract. And the same counsel that 7/1/69-3/8/71 represented conflicting Buyers-Sellers interests as defendants and counsel took plaintiff's substantial equity in said joint venture (plaintiff's total properties) under false pretenses that "defendants had a valid first mortgage on the nightclub land/building

and were 3 years Money Lenders to plaintiff" rather than "defendants had no valid mortgage on nightclub land/building and were 12-15 years phono records-music publishing-nightclub purchase joint venturers with plaintiff".

Said counsel was the same law firm partnership, with a slightly different name, that did evade $25,000-$50,000 federal tax liens by way of its 3/8/65 false document that declared that said liens were invalid when they were valid and that they were invalid by reason of an I.R.S. 12/26/62 document which clearly did not provide any reason whatsoever for invalidity. The 1982-discovered abstracts show that only the state tax liens were paid on 3/5/65. And said federal tax liens were never paid to this date, 1985. And it is obvious that plaintiff and his assets were used for the 6 years, 3/8/65-3/8/71, to insure the Landman law firm that it would not be prosecuted by the I.R.S. for its swindle. See Internal Revenue Code 1954 § 6531 six years limitation. (See pages 8 and 24a-27a).

2. WHERE BONA FIDE INDIGENT PLAINTIFF-APPELLANT ACTED WITHIN A REASONABLE TIME IN FILING SWORN ALLEGATIONS, INTER ALIA, THAT DEFENDANTS-APPELLEES AND THEIR FEDERAL TAX EVADING CONFLICTING DEBTOR-CREDITOR INTERESTS COUNSEL PROCURED AND 9½ YEARS PROLONGED THE TRIAL COURT DISMISSAL BY FRAUDS UPON THE COURTS AND APPELLATE COURTS MANDATED THAT PLAINTIFF FILE AN INDEPENDENT ACTION, TRIAL COURT SHOULD ACCEPT FEE AND BELATEDLY FILE, RETROACTIVE TO ATTEMPTED FILING DATE, PLAINTIFF-APPELLANT'S TIMELY GRIEVANCE/REQUIRED GCR 528.3 INDEPENDENT ACTION.

It was during May, 1983, that plaintiff was seeking an appeal, the record had not yet been transmitted, and trial court had jurisdiction.[4/]

4/ GCR 802.2(1) provides: "Except as otherwise provided by statute or rule, and until the record is filed in the Supreme Court or Court of Appeals, the trial court, tribunal or officer has jurisdiction to grant further time to do, properly perform, or correct any act in connection with the appeal, omitted or insufficiently done, except to extend time for filing claim of appeal or paying the appeal fee, to dismiss the appeal, or to allow a delayed appeal."

And plaintiff filed his GCR 528.3 motion alleging frauds upon the courts, the application for a delayed appeal of right of the 1974 Dismissal was declined to be reviewed by Michigan Supreme Court; and when plaintiff learned that the Michigan Supreme Court 1/30/84 declined to review Court of Appeals mandating that a GCR 528.3 independent action be filed rather than plaintiff's 1983 motion, plaintiff acted within a reasonable time by attempting to 2/21/84 file a GCR 528.3 independent action -- before the appellate process was exhausted by this Court.

Plaintiff should be allowed access to the trial court with his required independent action. And he should be allowed access at a meaningful time -- in this instance, within two years of his February, 1982-discovery of new evidence proving fraud.

> "The right to petition the government for a redress of grievances includes the right of access to the courts; that right is also subject to due process protection in that the opportunity must be at a meaningful time in a meaningful manner. U.S.C.A. Const. Amends.1,5."

Matter of N.C. Trading, Cust. & Pat. App. 1978,

586 F2d 221.

> "U.S. Const. Amend. 1 reads in pertinent part: 'Congress shall make no law . . . respecting the right of the people . . . to petition the Government for a redress of grievances.' This includes the right of access to the courts."

Matter of N.C. Trading. Id.

Trial court was aware on 2/21/84 of plaintiff's May, 1983 very strongly supported claim that the 1974 Dismissal was procured and 9½ years prolonged by frauds upon the courts.

> "Claims that judgments have been obtained by fraud should be strongly supported."

Sylvania Sav. Bank v Turner, 27 Mich App 640.

Trial court should uphold or set aside the 1974 Dismissal by providing necessary evidentiary hearing whether the GCR 528.3 allegations are in the form of a motion or an independent action.

> "A party may move a trial court to set aside an order or a judgment for fraud or any other reason justifying relief from the operation of the judgment, and where there are conflicting allegations and affidavits as to whether fraud was committed, the trial court must conduct an evidentiary hearing to determine whether such fraud existed (GCR 528.3)."

St. Clair Commercial v Macauley, 1975, 66 Mich App 210.

"The decision of the trial court will not be upheld where it abused its discretion by denying a necessary evidentiary hearing." Id.

There is no time limitation in federal courts and no one year time limitation in Michigan state courts.

"There is no time limitation which . . would bar a civil district court from granting relief from a final judgment upon ground of fraud upon the court."

Lockwood v Bowles, D.C.D.C.1969, 46 F.R.D. 625.

"The trial court has the power to set aside a judgment on the grounds of fraud. Literally read, the one year limitation does not apply."

Baum v Baum, 1969, 20 Mich App 68,76, 173 NW2d 744.

"The limitation of one year does not apply where 'fraud upon the court' is involved. Parlove v Klein, 37 Mich App 537,543-544; 195 NW2d 3 (1972)."

McDaniel v Jackson, 1977, 73 Mich App 218, 223n[6].

3. PLAINTIFF-APPELLANT DID TOLL A 2 YEARS STATUTE OF LIMITATIONS CONCERNING A CLAIM WHEN HE TIMELY ATTEMPTED TO PROPERLY FILE HIS REQUIRED INDEPENDENT ACTION, CERTIFIED MAILED COPIES TO EACH DEFENDANT, AND SOUGHT APPELLATE COURTS' MANDATING TRIAL COURT TO FILE THAT ACTION.

Plaintiff-appellant did all that he possibly could to insure that his 2/21/84 independent action would comply with the following:

> "If a person who is or may be liable for any claim fraudulently conceals the existence of the claim or the identity of any person who is liable for the claim from the knowledge of the person entitled to sue on the claim, the action may be commenced at any time within 2 years after the person who is entitled to bring the action discovers, or should have discovered, the existence of the claim or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations. P.A.1961, No. 236, § 5855, Eff. Jan. 1, 1963."

Mich. Compiled Laws Annotated 600.5855.

4. IT IS NOT LEGAL FOR 3 RICH MEN, THEIR INFLUENTIAL CONFLICTING INTERESTS LAW FIRM, AND THEIR REALTOR TO TAKE A CITIZEN'S TOTAL MONEY AND PROPERTIES, 2 LIMITED POWER OF ATTORNEYS, 8 YEARS' WAGES, COURT COSTS, AND CONSTITUTIONAL RIGHTS OF DUE PROCESS-EQUAL PROTECTION-PARENTAL RIGHTS-JUST COMPENSATION UNDER FALSE PRETENSES, BREACH OF CONTRACTS, FRAUDULENT CONVERSION, LIBEL & SLANDER, AND FRAUDS UPON THE COURTS -- WHILE USING HIM AND HIS ASSETS TO EXECUTE-COVERUP A $25,000-$50,000 FEDERAL TAX EVASION AND HIDDEN OWNERSHIP OF A LARGE NIGHTCLUB/BINGO PARLOR/FLEA MARKET!

Justice in Muskegon, Michigan is not by the lawyers for the lawyers; it is by the people for the people. Landman law firm lawyers do not have a license to steal. Defendants and their Landman law firm should not obstruct justice while trying to force an out-of-court settlement for $30,000-$100,000 in a case such as this where they have destroyed huge portions of the lives of plaintiff and his children with

their greed, lies, and white collar crimes!

> "Liberal construction is to be accorded a pro se complaint."

Sigafus v Brown, C.A.Ill.1969, 416 F2d 105.

It is illegal for defendants to have taken plaintiff's $2900 under false pretenses of their setting up a 9/25-10/1/64 joint bank escrow account for the joint purchase of a $6,000 resort liquor license, then have told everyone that they loaned their $3100 contributions to plaintiff for his sole purchase of a liquor license. In Michigan, it is a crime to take over $100 under false pretenses. And:

> "Any person who conspires together with 1 or more persons to commit an offense prohibited by law, or to commit a legal act in an illegal manner is guilty of the crime of conspiracy punishable as provided herein:. . . (d) Any person convicted of conspiring to commit a legal act in an illegal manner shall be punished by imprisonment in the state prison for not more than 5 years or by a fine of not more than $10,000 or both such fine and imprisonment in the discretion of the court."

Mich. Comp. Laws Annot. § 750.157a.

It is not legal for defendants to be represented by a law firm partnership which itself is guilty of wrongfully using plaintiff and its knowingly fraudulent interpretation of United States v William J. Brosnan et al and Bank of America National Trust And Savings Association, a National Banking Association v United States (1960) 363 U.S. 237, in evading substantial federal taxes while representing both Buyers and Sellers of the taxed nightclub land. See 26 USC § 6321, 42 USC § 1983, 42 USC § 1985 (2) (3), I.R.S.12/26/62 R.I. Nixon Directive, said Brosnan case, Internal Revenue Code 1954 § 6325 (b) (2) (B) and § 6531, said M.C.L.A 600.5855 and 750.157a, and the complete abstract of nightclub land filed in trial court during February, 1982.

It is not legal for Landman law firm and defendants to have disguised defendants as short term Money Lenders when they were really and truly long term joint venturers with plaintiff. See 42 USC § 1985 (3),

and M.C.L.A. 750.157a.

> "A joint adventure is a single enterprise, jointly undertaken, to carry out a single project for profit."

Georges v Ballard (1969) 20 Mich App 554, 174 NW2d 311.

> "Where codefendants advanced money to purchaser to enter into land contract and advancements were to be returned out of net proceeds and codefendants were to participate in profits above advancements, purchaser and codefendants held 'joint adventurers,' rendering all liable for deficiency upon foreclosure."

Adams v Bruce, 265 Mich 137, 251 NW 328--1934.

> "Implied outside time limit was length of land contract which was of reasonable duration."

Harbor Land Co v Township of Grosse Ile (1970), 22 Mich App 192, 177 NW2d 176.

It is not legal for defendants to 9/25/64 and 11/22/66 solicit plaintiff to use his entire assets plus 100 hours weekly for 5½ years of tedious labor to buy stock in a corporation that was never formed without just compensation paid to plaintiff..

> "Failure to organize the corporation has been termed a failure of consideration creating liability of the promoters

to the subscribers for the amount received."

LeZontier v Shock, 1977, 78 Mich App 324.

It is not legal for defendants and their Landman law firm to take over plaintiff's entire joint venture equity under false pretenses, then procur and prolong a trial court Dismissal by perjury and frauds upon the courts: It's worse than taking substantial money under false pretenses which is a felony crime.

5. A 1964-1972 TOTALLY WIPED OUT-STILL FINANCIALLY EXHAUSTED 62 YEARS OLD-5 YEARS COLLEGE TRAINED-EX U.S. ARMY OFFICER PLAINTIFF-APPELLANT **CANNOT** BE DEPRIVED OF A TRIAL COURT HEARING OF HIS TIMELY MOTION OR A TRIAL COURT FILING OF HIS TIMELY APPELLATE COURTS-MANDATED INDEPENDENT ACTION FOR A NEW TRIAL ON GROUNDS OF OPPONENTS' SEVERAL SIGNIFICANT FRAUDS UPON THE STATE AND FEDERAL COURTS DURING THIS 12 YEARS NONSTOP CIVIL CASE WHERE HE, WITH AND WITHOUT AN ATTORNEY, WAS DENIED (1) A JURY, (2)

A FAIR TRIAL, (3) WAIVER OR SUSPENSION OF APPEAL COSTS, (4) A HEARING TO SETTLE FACTS, (5) A TIMELY APPEAL OF RIGHT, (6) A DELAYED APPEAL OF RIGHT THOUGH HE BELATEDLY EARNED THE $5,000 AND FILED THE REQUIRED FULL TRANSCRIPT, (7) DISQUALIFICATION OF TRIAL JUDGE AND OPPOSING FEDERAL TAX EVADING-FOR-SECRET-CLIENTS CONFLICTING INTERESTS COUNSEL,AND (8) ADDING HIS ASSISTANT ATTORNEY, A COURT STENOGRAPHER, AND HUGE INFLUENTIAL OPPOSING COUNSEL AS NECESSARY DEFENDANTS -- AND WHERE THE HIGHER COURTS NEVER ONCE TOOK DELIVERY OF THE FULL MEANINGFUL RECORD OF THE CASE FOR A MEANINGFUL REVIEW -- AND WHERE A COURT OF APPEALS 3 JUDGES PANEL REFUSED TO EVEN ALLOW THEIR NAMES TO APPEAR ON THEIR ORDER OF DEPRIVATION -- AND WHERE THE STATE SUPREME COURT REFUSED JURISDICTION!

To deprive plaintiff-appellant in pro per with assistant attorney of a hearing of said 1983 Motion or a filing of said 1984 Independent Action would be against the Constitution and

laws shown herein. It would put a lid on this matter forever. It would be akin to allowing a gang of thugs to get away with their 1970 robbing and murdering a 48-years old prominent citizen - and wrecking the lives of his children!

CONCLUSION

Defendants, their realtor, and their Landman law firm pulled off a confidence game that took everything away from plaintiff, put him and his children on public welfare, and clogged the courts for years with white collar crimes. THE TIME IS LONG OVERDUE FOR JUSTICE TO REVERSE THIS PROCESS! And a writ of certiorari should issue.

Respectfully submitted,

8/29/85

Donald Edgar Johnson

Donald Edgar Johnson

DONALD EDGAR JOHNSON, In Pro Per
Attorney for Petitioner
P.O. Box 5102 - 400 Causeway
N. Muskegon, Michigan 49445

APPEARANCE

SUPREME COURT OF THE UNITED STATES

No. _____

DONALD EDGAR JOHNSON,

Petitioner,

vs

CARL ALFRED JOHNSON, SR.,
A/K/A CARL ALFRED JOHNSON,
RICHARD GORDON JOHNSON, And
CARL ALFRED JOHNSON, JR.,
Jointly And Severally,

Respondents.

The Clerk will enter my appearance in pro per as Counsel of Record for DONALD EDGAR JOHNSON, who IN THIS COURT is Petitioner.

Donald Edgar Johnson 8/29/85

Mr. DONALD EDGAR JOHNSON, In Pro Per
Attorney for Petitioner
400 Causeway - P.O. Box 5102
N. Muskegon, Michigan 49445
Telephone (616) 744-1119

FEE FOR DOCKETING

SUPREME COURT OF THE UNITED STATES

No. _____

DONALD EDGAR JOHNSON,

Petitioner,

vs

CARL ALFRED JOHNSON,
A/K/A CARL ALFRED JOHNSON,
RICHARD GORDON JOHNSON, And
CARL ALFRED JOHNSON, JR.,
Jointly And Severally,

Petitioners.

The Clerk will please accept the attached $200 U.S.A. Money Order as the fee to be charged by the Clerk for docketing the foregoing Emergency Petition For Certiorari.

(#33109439534, 850719, 49442, 200.00)

8/29/85

Donald Edgar Johnson

DONALD EDGAR JOHNSON, In Pro Per
Attorney for Petitioner
400 Causeway - P.O. Box 5102
N. Muskegon, Michigan 49445

PROOF OF SERVICE

A F F I D A V I T

State of Michigan }
County of Muskegon } SS

Donald Edgar Johnson, being first duly sworn, says that he is not a member of the Bar of this Court and that pursuant to this Court's Rules 28 (.1)(.2)(.3)(.5c) he this day served three (3) copies of the foregoing Emergency Petition For Writ of Certiorari to the Supreme Court of Michigan upon counsels for the respondents plus one copy to each of the following: The 3 defendants, Clerk of Supreme Court of Michigan, and Clerk of Muskegon County Circuit Court. All parties required to be served have been served. Such service was accomplished by mailing the copies first-class and postage prepaid to the following:

Chiefs, LANDMAN, LATIMER, CLINK & ROBB,
P.O. Box 29, Muskegon, Michigan 49443,

William F. McNally et al, CULVER, LAGUE & McNALLY,
P.O. Box 386, Muskegon, Michigan 49443,

Carl Alfred Johnson, Richard Gordon Johnson,
And Carl Alfred Johnson, Jr., 1551 Glenwood,
N. Muskegon, Michigan 49445,

Clerk, Supreme Court of Michigan,
P.O. Box 30052, Lansing, Michigan 48909,

Clerk, Muskegon County Circuit Court,
County Building - 2nd Floor,
Muskegon, Michigan 49442.

Donald Edgar Johnson

Subscribed and sworn to before me with seal affixed on this 29th day of August, 1985.

Notary Public, Muskegon County, Michigan.
My Commission expires _____.

APPENDIX

1. OPINION DELIVERED UPON THE RENDERING OF THE 3/28/85 AND 6/25/85 JUDGMENTS BY THE SUPREME COURT OF MICHIGAN WHOSE DECISIONS ARE SOUGHT TO BE REVIEWED:

> ". . . The Court is not persuaded that the question presented should be reviewed by this Court. . . . It does not appear that the order was entered erroneously."

2. OTHER OPINIONS, ORDERS, FINDING OF FACT, AND CONCLUSION OF LAW RENDERED BY COURTS IN THIS CASE PERTINENT TO THIS INTERLOCUTORY CAUSE. (There were no companion cases). 12/9/74 CIRCUIT COURT FOR THE COUNTY OF MUSKEGON #73-7432-CK DONALD EDGAR JOHNSON, Plaintiff, v. CARL ALFRED JOHNSON, SR., et al, Defendants. The above entitled action having come on for trial, the plaintiff having presented evidence and rested his case, the defendants having moved for Judgment at the end

of plaintiff's case, the Court being fully advised in the premises, and the Court having made findings of fact and conclusions of law, IT IS ORDERED, that defendants' Motion be and hereby is granted and Judgment of No Cause of Action be entered in favor of the Defendants, with costs and statutory attorneys fees being taxes against plaintiff, plaintiff not having proven the allegations contained in his complaint for the reasons set out in the opinion of the Court rendered in open Court. . . Approved as to Form _____ Donald Edgar Johnson, Plaintiff 4984 Grand Haven Road, Muskegon, Michigan 49441 /s/ William F. McNally, of LANDMAN, HATHAWAY, LATIMER, CLINK & ROBB, Attorneys for Defendants . . .

1/26/82 CIRCUIT COURT FOR THE COUNTY OF MUSKEGON #73 C-7432 CK DONALD EDGAR JOHNSON, Plaintiff-Appellant, vs. CARL ALFRED JOHNSON, SR., ET AL, Defendants-Appellees. The Court having reviewed the pleadings and heard oral argument, IT IS ORDERED that the emergency

motion in pro per by plaintiff-appellant for immediate declaratory judgment that defendants' Landman law firm's 3/8/65 invalidation of over $25,471 Federal tax liens was and continues to be a fraud/false pretense on the U.S. Taxpayers, the I.R.S., the Courts, and all parties, is hereby DENIED because this State court is without jurisdiction to declare whether said invalidation was or continues to be a tax fraud against the Federal government.

8/3/83 CIRCUIT COURT FOR COUNTY OF MUSKEGON #73 C-7432 CK DONALD EDGAR JOHNSON, Plaintiff-Appellant, vs CARL ALFRED JOHNSON, SR., A/K/A CARL ALFRED JOHNSON, RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., Jointly And Severally, Defendants-Appellees. JUDGE'S CERTIFICATE TO CONCISE STATEMENT (To Michigan Court of Appeal #50565).

On 5/2/83, the Muskegon County Circuit Court had concurrent jurisdiction with Michigan Supreme Court cause 71091 of Johnson v Johnson, Sr., et al, because the complete

record, including Court of Appeals cause 22496 ordered-2/5/76 full transcript of the county trial court's proceedings; had never been transmitted to any court. GCR 802.2(1). and Williams v State Highway Dept., 44 Mich App 51. And plaintiff-appellant in pro per paid the $10 fee and filed in the county trial court 73 C-7432 nonjury civil case his motion for a new/partially-new trial grounded on frauds upon the courts inter alia.

On 5/10/83, the trial court's Chief Judge Ronald H. Pannucci ordered that plaintiff-appellant's $10 fee, motion-5/2/83, and supplemental pleadings be returned to plaintiff-appellant by the clerk because of as trial court Order-5/10/82 that no more pleadings be accepted from plaintiff-appellant unless a higher court ordered otherwise.

On 5/26/83, Judge Michael E. Kobza ordered that plaintiff-appellant be subjected to contempt of court if he even attempted to file a motion for a new/partially-new trial grounded on frauds upon the court.

On 6/23/83, Michigan Supreme Court cause 71091 re-refused to review 4 questions presented because of Court of Appeals cause 59895 denial of plaintiff-appellant's seeking an over-18-months-delayed appeal of right or a new/partially-new trial between 6/22/82 and 1/27/83

On 6/29/83, Judge Kobza ordered plaintiff-appellant to pick up all exhibits.

On 7/19/83, Judge Kobza allowed that plaintiff-appellant's copy of his Petition for Removal of Cause to Federal Court be filed in the trial court.

To this date, the trial court never returned plaintiff-appellant's $10 fee, his motion-5/2/82 for a new trial, or supplemental pleadings including his affida vits of 11 or 12 frauds on the courts that plaintiff-appellant alleges are grounds for trial court's setting aside its Dismissal-12/9/74 and ordering a new/partially-new trial.

11/29/83 COURT OF APPEALS OF THE STATE OF MICHIGAN, Detroit, #50565 L.S. #73 C-7432 CK

DONALD EDGAR JOHNSON, Plaintiff-Appellant, v CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees. In this cause plaintiff-appellant has filed an application for rehearing of this Court's order of September 23, 1983, granting the motion for immediate consideration and denying the application for leave to appeal, and no answer to the application for rehearing having been filed, and due consideration of the foregoing having been had by the Court, IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for the reason that more than 1 year having elapsed from the date of judgment, plaintiff is required to file an independent action, GCR 528.3.

1/30/84 SUPREME COURT OF THE STATE OF MICHIGAN #73254 DONALD EDGAR JOHNSON, Plaintiff-Appellant, v CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees.

On order of the Court, the application for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the questions presented should be reviewed by this Court.

2/3/84 U.S. DISTRICT COURT, WESTERN DISTRICT OF MICHIGAN, OFFICE OF THE CLERK #G83-774 CA6 DONALD EDGAR JOHNSON, Plaintiff, vs. ANTHONY J. MARK, A/K/A TONY MARK, LANDMAN, LUYENDYK, LATIMER, CLINK & ROBB, A Michigan Partnership, RICHARD GORDON JOHNSON, CARL ALFRED JOHNSON, JR., CARL ALFRED JOHNSON, A/K/A CARL ALFRED JOHNSON, SR., AND ATTORNEYS FRED C. CULVER, JR., WILLIAM F. McNALLY, WILLIAM M. NEWMAN, THOMAS M. BOVEN, WILLIAM T. KERR, Jointly And Severally, Defendants. Your recently received "Complaint for Injunctive Relief and Damages for Fraudulent Concealment of a U.S. Agency's Claim or Identity of Persons Li able" and affidavit has been reviewed by Chief Judge Wendell A.Miles' office, in view of the injunction against the Clerk of the Court from

accepting any further filings from you in the case of G83-774 CA6 in this matter. The court has determined this new complaint is a continuation of the same matter previously determined and has ordered that the complaint be returned to you without filing. Your Republic Money Order No. GJ-54992194-4 dated Jan. 29, 1984, which is stapled to page 21 of the complaint is also returned. Also returned is your affidavit. We also enclose a copy of the court's order enjoining the clerk of the court from accepting any further filings in this matter. Very truly yours, /s/ Gerald H. Liefer.

4/27/84 SUPREME COURT OF THE STATE OF MICHIGAN #73254(24) DONALD EDGAR JOHNSON, Plaintiff-Appellant, v CARL ALFRED JOHNSON, JR., RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., jointly and severally, Defendants-Appellees. On order of the Court the motion in propria persona by plaintiff-appellant for reconsideration of this court's order of January 30, 1984,

is considered, and the motion is DENIED, because it does not appear that said order was entered erroneously. Further, the Clerk is directed to refuse to accept for filing any further pleadings in this matter from the plaintiff-appellant, including the filing of a motion for reconsideration of this order. GCR 1963, 861.5.

5/18/84 CIRCUIT COURT FOR THE COUNTY OF MUSKEGON #73 C-7432 CK DONALD EDGAR JOHNSON, Plaintiff-Appellant, vs CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, And CARL ALFRED JOHNSON, JR., Jointly And Severally, Defendants-Appellees. JUDGE'S CERTIFICATE TO CONCISE STATEMENT (To Michigan Court of Appeals #78170)

Before 4/27/73, plaintiff believed that he had a criminal action, but the appropriate state/federal agencies refused to prosecute.

Plaintiff filed a civil suit against his father and 2 brothers about 4/27/73 alleging over $2 million damages from their wrongfully taking everything he possessed, libeling, and

slandering him. Trial court denied plaintiff the jury trial that he paid $30 and timely requested. Trial Court denied plaintiff's pleas for GCR 120 waiver or suspension of costs of appeal and dismissed the case on 12/9/74. All post 12/9/74 state/federal courts decisions have been interlocutory as plaintiff sought entitled Due Process, Equal Protection, Parental Rights, and Just Compensation.

Between 12/9/74 and 5/2/83, plaintiff sought to make opposing counsel a necessary defendant and sought a new/partially-new trial, a timely appeal of right, and a delayed appeal of right

Between 5/2/83 and 2/6/84, plaintiff sought a new/partially-new trial pursuant to GCR 528.3 on grounds, inter alia, of frauds upon the courts. See 12 frauds entered in record on 5/20/83. But the state appellate courts ruled that "more than one year having elapsed from date of judgment, plaintiff is required to file an independent action, GCR 1963, 528.3."

Between 2/6/84 and 4/27/84, trial court's Chief Judge J.M. Graves and Judge M.E. Kobza

refused to allow plaintiff to pay fees and file his new "civil and/or criminal" independent action that he timely certified mailed to opposing counsel and each individual defendant. See copy in Supreme Court #73254 of 72 pages alleging a criminal conspiracy by prominent high-placed people.

On 4/27/84, Supreme Court of Michigan #73254 reaffirmed that plaintiff is required to file independent action.

Between 4/27/84 and this date, trial court repeatedly denied plaintiff's verbal and written pleas for permission to stay proceedings and file an independent action. And the Court of Appeals assigned its number 78170 to this matter on 5/11/84 with instructions to plaintiff to refile his 5/10/84 Emergency Application for Leave to Appeal after he has complied with the assistant clerk's letter of 5/14/84. Plaintiff believes that he is entitled to immediately file an emergency independent

action pursuant to GCR 528.3 alleging, inter alia, that defendants and their federal-tax-evading-conflicting-debtor-creditor-interests MK counsel procured said 12/9/74 Dismissal and 9½ years prolonged it by frauds upon the courts as sworn to in the 12 frauds shown in the 5/20/83-entered document. The trial court believes that plaintiff can file absolutely no more papers in this 1973-to-date matter unless the appellate courts specifically order otherwise. CERTIFICATE. I, Michael E. Kobza, Judge of the Circuit Court for the County of Muskegon, before whom the above-entitled cause was assigned May 17, 1983, do hereby certify that after due notice I have settled the foregoing as a concise statement of proceedings and facts in support of the application for leave to appeal in said cause, and I further certify that said statement of facts fairly presents the questions for review in said cause. Dated: May 18, 1984. /s/ Michael E. Kobza. (Emphasis added).

NOTE: THE 3 JUDGES PANEL REFUSED TO ALLOW THEIR NAMES TO APPEAR ON THE FOLLOWING ORDER:

9/20/84 COURT OF APPEALS OF THE STATE OF MICHIGAN, Lansing, #78170. DONALD EDGAR JOHNSON, Plaintiff-Appellant, -v- CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., Defendants-Appellees.

In this cause an application for leave to appeal is filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court, IT IS ORDERED that the application be, and the same is hereby DENIED for lack of merit in the grounds presented.

NOTE: THE 3 JUDGES PANEL REFUSED TO ALLOW THEIR NAMES TO APPEAR ON THE FOLLOWING ORDER:

10/31/84 COURT OF APPEALS OF THE STATE OF MICHIGAN, Lansing, #78170. DONALD EDGAR JOHNSON, Plaintiff-Appellant, V CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON and CARL ALFRED JOHNSON, JR., Defendants-Appellees.

In this cause, an application for rehearing

of this Court's order of September 20, 1984, denying an application for leave to appeal having been filed by plaintiff-appellant, and no answer in opposition thereto having been filed, and due consideration thereof having been had by the Court; IT IS ORDERED that the application for rehearing be, and the same is hereby DENIED for lack of merit in the grounds presented. IT IS FURTHER ORDERED that the Clerk is directed to refuse to accept for filing any further pleadings in this matter from plaintiff-appellant, including a filing of an application for rehearing of this order, GCR 1963, 816.5.

3. THE JUDGMENT SOUGHT TO BE REVIEWED AND ORDER ON REHEARING.

"AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN, Held at the Supreme Court Room, in the City of Lansing, on the 28th day of March in the year of our Lord one thousand nine hundred and eighty-five. Present the Honorable G. MENNEN WILLIAMS, Chief Justice,

CHARLES L. LEVIN, JAMES L. RYAN, JAMES H. BRICKLEY, MICHAEL F. CAVANAGH, PATRICIA J. BOYLE, DOROTHY COMSTOCK RILEY, Associate Justices. SC: 75403, COA: 78170, LC: 73 C-7432 CK. 75403. DONALD EDGAR JOHNSON, Plaintiff-Appellant, v CARL ALFRED JOHNSON, SR., RICHARD GORDON JOHNSON, and CARL ALFRED JOHNSON, JR., Jointly and Severally, Defendants-Appellees.

On order of the Court, the application in propria persona for leave to appeal is considered, and it is DENIED, because the Court is not persuaded that the question presented should be reviewed by this Court.

STATE OF MICHIGAN -- ss.

I, CORBIN R. DAVIS, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing this 28th day of March in the year of our Lord one thousand nine hundred and eighty-five.

/s/ Jacqueline B. MacKinnon, Clerk

/s/ Deputy".

(On Rehearing)

"AT A SESSION OF THE SUPREME COURT OF THE STATE OF MICHIGAN, Held at the Supreme Court Room, in the City of Lansing, on the 25th day of June in the year of our Lord one thousand nine hundred and eighty-five. Present the Honorable G. MENNEN WILLIAMS, Chief Justice, CHARLES L. LEVIN, JAMES L. RYAN, JAMES H. BRICKLEY, MICHAEL F. CAVANAGH, PATRICIA J. BOYLE, DOROTHY COMSTOCK RILEY, Associate Justices. 75403(23). DONALD EDGAR JOHNSON, Plaintiff-Appellant, v CARL ALFRED JOHNSON, SR., et al, Defendants-Appellees. SC: 75403, COA 78170, LC: 73-C-7432-CK

On order of the Court, the motion for

reconsideration of this Court's order of March 28, 1985 is considered, and it is DENIED, because it does not appear that the order was entered erroneously. 0620

STATE OF MICHIGAN-- ss.

I, CORBIN R. DAVIS, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that it is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing this 25th day of June in the year of our Lord one thousand nine hundred and eighty-five. /s/ Corbin R. Davis, Clerk."

4. OTHER MATERIAL.

3/8/65 Defendants' Landman law firm Began The 3/8/65-3/8/71 $25,000-$50,000 Federal Tax Evasion-6 Years Using Plaintiff And His Assets To Coverup. This is copy of 1974 Trial Exhibit 229A. (229B is like 12/26/62 I.R.S. Directive shown on page 6 herein). Admitted Exhibits.

"Prepared by;
V.S. Laurin, Atty.
606 Hackley Bank Bldg.
Muskegon, Michigan

LIBER 817 PAGE 626
STATE OF MICHIGAN
COUNTY OF MUSKEGON
RECEIVED FOR RECORD
1965 MAR 8 PM 2 23
/s/ John W. Hosko
REGISTER OF DEEDS

A F F I D A V I T

V.S. Laurin, Jr. being first duly sworn deposes and says that he is an attorney at law with offices at 606 Hackley Union National Bank Building, Muskegon, Michigan. That as such attorney at law he filed an application for discharge of property from federal tax lien under Section 6325 (b) (2) (b) Internal Revenue Code of 1954, taxpayer Dominic DeGiovanni and

Irene DeGiovanni d/b/a Vista Grill. That as a result of said application he received a letter from R.I. Nixon District Director, a copy of which is attached hereto, and made a part of this affidavit. That this application concerning said Federal Tax Liens concerned property located in the City of Muskegon Heights, County of Muskegon and State of Michigan described as:

Commence 254.24 feet South and 82.5 feet West of the Northeast corner of Government lot 4, Section 8, Town 9 North, Range 16 West, then South 0°08' West, 431.1 feet from point of beginning thence North 89°52' East 320 feet, thence South 0°08' East 190 feet to place of beginning.

Which property is presently titled in the names of Lee Christensen, Walter F. Clark, Jr., Anthony Scalici and Herbert M. Biermacher.

This affidavit is made for the purpose of placing on record notice of the invalidity of the aforesaid federal tax liens.

Further affiant sayeth not.

/s/ V.S. Laurin, Jr.
(attorney with LANDMAN GRIMM BRADBURY & LAURIN /s/ DEJ)

Subscribed and sworn to before me this 8th day of March, 1965.

/s/ Ann E. Fleckenstein, Notary Public
Muskegon County, Michigan
My Commission expires: 12/21/65.

LIBER 817 PAGE 626

OVER

EXIB. 229A"
(Admitted)

4/6/65 Then-Attorney Albert J. Engel (Now Known As Federal Judge Albert J. Engel) Wrote Plaintiff, "You May Safely Proceed And Ignore The Said Liens." From admitted 251-253:

"ENGLE & ENGEL, Attorneys At Law . . . Muskegon, Michigan . . . April 6, 1965. Mr. Donald E. Johnson . . . Dear Don: At your request I have examined the Abstract of Title . . . I am of the Opinion that as of the last date of certification marketable title of record in and to the two above described parcels was in the following named persons:

Lee Christensen
Walter F. Clark, Jr.
Anthony Scalici
Herbert M. Biermacher

free and clear of liens and encumbrances of record as hereandafter noted.

. . . Dominic DiGiovanna (sometimes spelled DiGiovanni) assigned his interest in a land contract supposedly dated May 29, 1959, to Commercial Acceptance Corporation. This land contract apparently covered Parcel "B" only and in fact the land contract itself was never recorded. It appears by subsequent entries that any land Contract interest which Mr. DiGiovanna (DiGiovanni) may have had was extinguished by forfeiture proceedings and Writ of Restitution which restored the above named fee owners to possession according to entries #43A and #44A of the second abstract. Since there is no evidence that Commercial Acceptance Corporation was in possession of said premises, and no evidence that there was any acceptance or agreement to assignment on the part of the fee owners and neither any evidence of privity of contract between those owners and Commercial Acceptance Corporation, I am of the Opinion that by the forfeiture proceedings taken against Mr. DeGiovanna, any interest of Commercial

Acceptance Corporation was effectively extinguished. In my Opinion, therefore, it may be effectively ignored.

A number of liens filed by the State of Michigan against Mr. DiGiovanni on behalf of the Michigan Employment Security Commission appear to have been effectively released as they would pertain to the described premises. . . .

Parcel "B" has been the subject of the filing of six (6) separate notices of tax lien by the United States Internal Revenue, Detroit District, which notices of tax lien are abstracted at entries #28A, 30A, 39A, 40A, 41A, and 42A. The amounts claimed by these several notices as they appear in said notices, total $25,470.77. All of said liens are against Dominic DiGiovanna ands they are for withholding tax, excise tax, and additional assessments for income tax. . . . The letter from Mr. Nixon declines to issue such certificates but states therein that by virtue of the rulings of United States Supreme Court in the case of Bank of

America National Trust and Savings Association V. United States (1960) 363 U.S. 237, it was held that Federal tax lien outstanding against the property, which was as junior lien, was discharged by a foreclosure sale if under the applicable state law such junior liens are so discharged. Since this is the case in Michigan, apparently the District Director was of the opinion that the foreclosure proceedings already taken by the fee owners whereby the interest of Mr. DiGiovanna in the land under his two land contracts was extinguished, effectively extinguished the right of the United States in the premises which were so forfeited. For that reason, since the law has already operated to extinguish this and since in the opinion of the District Director the record of the forfeiture proceedings and Writ of Restitution was apparently sufficient, he did not deem that he had further authority to execute a discharge on behalf of the Internal Revenue Service.

While unquestionably it would be preferable for an adequate discharge to be obtained by the Internal Revenue Service this does not seem to be practicably possible and, therefore, we are left with a decision whether the record title as it now stands can be considered marketable notwithstanding the record of said liens, and in view of the subsequent forfeiture proceedings and the affidavit and letter referred to. In my Opinion, while this is not the most desirable record still I believe that you may safely proceed and ignore the said liens . . .

Very truly yours,
ENGLE & ENGEL
/s/ Albert J. Engel

AJE:ic"

(Admitted Trial Exhibits 251-253).
(Emphasis added).

2/22/82: Persistent Plaintiff First Discovered Hidden Abstracts Proving Hidden Ownership And Plaintiff Was Used For Landman Law Firm's 3/8/65-3/8/71 Federal Tax Evasion-Coverup:

A. DiGiovanna had an interest in the nightclub land and building by way of three (3) land

contracts: 12/24/57, 3/24/59, and 4/24/59 from Thomas & Wife.

B. On 5/20/59, DiGiovanna, "a single man", assigned his full 12/24/57-5/20/59 interest to a 1934-1977 Michigan corporation, Commercial Acceptance Corporation (Assignee of Moceri Bar Manufacturing), of the 12/24/57 land contract assumed by Dominic and Irene DiGiovanna. And there is evidence that Commercial Acceptance Corporation was in possession, as a hidden owner, of the nightclub land and building during and after 1965 contrary to Landman law firm and Attorney Engel. Entree #44's zerox of 5/20/59 assignment. (Life of corporation from Michigan's Dept. of Commerce).

C. As Landman law firm's client-Hackley Bank retained a 11/26/58 mortgage on it, Thomas & Wife deeded nightclub land and building, which Commercial Acceptance Corporation still had part ownership of, to Landman law firm's Kent county clients, Lee Christensen, et al, on

12/28/59.

D. On 3/8/60, a creditor attempted to sue against "Dominic DiGiovanna, Herbert M. Biermacher and wife, Dorothy M. Biermacher, Anthony Scallici and wife, Louisa M. Scallici, Walter F. Clark, Jr., and wife, Henrietta Clark, Lee Christensen and wife, Jean Christensen, and Commercial Acceptance Coporation, a Corporation."

E. On 2/8/62, a misleading "Discharge of Tax Lien", not a "Partial Release of Tax Lien", was filed in county Register of Deeds re 1958 State tax liens.

F. Between 1957 and 1971, there never were any foreclosure sales of the nightclub land and building!

G. On 3/5/65, State 1962 tax liens were paid.

H. Between 1957 and this date, 1985, there never were any grounds for invalidating any Federal tax liens on grounds of any rulings by the Supreme Court of the United States!

I. Petitioner's Contentions Are Affirmed By The Case Of United States V. Brosnan et al And Bank of America National Trust And Savings Association V. United States (1960) 363 U.S. 237:

"United States § 120 -- liens -- priority.

4. A federal tax lien does not necessarily attach subject to a lien already encumbering a fee owned by a taxpayer, merely because the pre-existing lien enjoys seniority under state law; a fortiori, the 'property' to which a federal lien can attach pursuant to 26 USC § 6321 is not diminished by the particular means of enforcement possessed by a competing lienor to whom federal law concedes priority.

Courts § 833 -- applying state law -- tax liens.

3. In determining the extent of the 'property and rights to property' to which a government tax lien attaches under 26 USC § 6321, the Supreme Court of the United States looks to state law."

5/3/83 Emergency Motion For A New Trial

"FILED 1983 May 3 P 3:37

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

DONALD EDGAR JOHNSON,

File No. 73-C-7432 CK

Plaintiff-Appellant,

Supreme Court 71091

v

Court of Appeals 59895

CARL ALFRED JOHNSON, SR.,
A/K/A CARL ALFRED JOHNSON,
RICHARD GORDON JOHNSON, And
CARL ALFRED JOHNSON, JR.,
Jointly And Severally,

Defendants-Appellees.

EMERGENCY MOTION FOR A NEW OR PARTIALLY-NEW TRIAL; Notice Of Hearing; Proof Of Service.

Donald Edgar Johnson, In Pro Per
Attorney for Plaintiff-Appellant

William F. McNally (P-17533) and
Landman Luyendyk Latimer Clink & Robb
Attorneys for Defendants-Appellees.

THIS PARTIALLY-LITIGATED 1973 CASE CONTESTS CUSTODY OF INTERSTATE KIDNAPPED MINOR CHILDREN AND ALLEGES CRIMES OF TAKING TOTAL PROPERTIES AND BASIC CONSTITUTIONAL RIGHTS UNDER FALSE PRETENSES TO COVER UP A $30,000 FEDERAL TAX EVASION.

NOW COMES DONALD EDGAR JOHNSON, plaintiff-

appellant in pro per with assistant attorney Gary L. Veurink, and moves the court to order a new or partially-new trial of the above-entitled action for one or more of the following causes:

1. Irregularity in the proceedings of the court and prevailing party. On first day of trial, 10/3/74, plaintiff in pro per with assistant attorney John B. Olsen was denied a jury and the County still has plaintiff's $30 jury demand fee that was timely paid and never refunded. The trial was but partially-recorded because (a) its first half hour was not recorded by stenographer Robert C. Fazio, and (b) the many hours of stipulation sessions secret from plaintiff in pro per between his assistant attorney Olsen and codefendants' Landman law firm were not recorded. It was an unfair trial because (a) all pretrial and trial requests for admissions and discoveries were denied, (b) the trial Judge John H. Piercey ordered frequent lengrhy scattered secret-from-

plaintiff-in-pro-per stipulation sessions that utilized in advance of proceedings plaintiff's pretrial-prepared chronological list of facts showing related exhibits (trial exhibit 1A) that enabled defendants' speedy coverup of vital points and drawn out presentation of side issues, (c) vital exhibits were rejected, (d) proceedings were somewhat slowed by Judge Piercey's ordering clerk to remove each exhibit from organized books brought in by plaintiff, and (e) plaintiff in pro per was denied so-called 'editorial comments' as he presented testimony as if there would be time for a closing argument - then denied a bona fide closing argument to bag facts at end of testimony because there wasn't time for a closing argument. And a miscarriage of justice occured.

2. An order of the court and the court's abuse of discretion which prevented the moving party from having a fair trial. It was wrong for the court to (a) deny a jury for the

question of damages from plaintiff's loss of his only 2 children who were interstate kidnapped and never seen or heard from for years, (b) deny that defendants answer none of several pretrial, trial, and post-trial requests for admissions and important discoveries, (c) deny adjudging that plaintiff owned substantial properties before and during the summer of 1964 when all parties went on a venture, (d) order valuable trial time to be used out of courtroom and presence of plaintiff in pro per by way of secret stipulation sessions between assistant attorney Olsen and opposing counsel - using plaintiff in pro per's detailed trial strategy papers for 'staging' proceedings in defendants' favor where Olsen had been a member of opposing counsel's law firm and could collude to further his career at plaintiff in pro per's expense, (e) reject certain vital exhibits during the trial, (f) slow proceedings deliberately, then disallow their completion for lack of time, and (g) pretend that plaintiff in pro per had rested his case without a closing argument and

over plaintiff's objection.

3. A decision against the great weight of evidence and contrary to law. Plaintiff had full custody of his only children who were minors for 10 years and they were interstate kidnapped and defendants and their conflicting debtor-creditor interests federal tax-evading Landman law firm caused the loss and a jury was denied contrary to laws and the Constitution. Trial Judge Piercey's interrupting for 30 days the trial at mid-point during which opposing counsel helped his 11/74 reelection to another term on the bench, then cutting short the trial and signing opponent counsel's phony dismissal as if there was no cause of action - was against a preponderance of evidence --

a. That plaintiff had 3½ years' full custody of 9 years old daughter and 8 years old son plus subs antial phono records-music publishing-real estate-cash properties worth up to a million dollars as he went on a family phono records-music publishing-nightclub

purchase joint venture about 8/20/64 when Landman Luyendyk Latimer Clink & Robb law firm partnership represented plaintiff potential Buyer and the potential Sellers of the Hoyt Street-Seaway Expressway nightclub real estate with over $25,000 federal liens on it,

b. That, as all parties were represented by plaintiff who was represented by Landman law firm's nightclub real estate Sellers' realtor Anthony J. Mark and no other law firm or lawyers, all parties went on a 15-years phono records-music publishing-nightclub purchase family joint venture on 11/5/64 for purposes of financial gain and enhancing the way of life of plaintiff and his two small children who had an income of about $430 weekly-just from plaintiff's traveling entertainer services, plus other phono records-music publishing incomes,

c. That defendants-appellees' present Landman Luyendyk Latimer Clink & Robb law firm partnership entered in Muskegon County Register of Deeds a false pretense on 3/8/65 that there

were no federal liens on the nightclub being purchased by the family joint venturers in plaintiff's name until incorporation would be formed,

d. That between 8/20/64 start of joint venture and the 4/27/73 start of this case, defendants and said Landman law firm did take plaintiff's total very substantial worldwide properties and child custodys under false pretenses in 2 steps: (1) they funneled plaintiff's total assets into a family phono records-music publishing-nightclub joint venture under false pretenses (i) they would use plaintiff's short term promissory notes only as memos for collateral until incorporation and would put plaintiff's $2900 that defendants took full custody of about 10/1/64 into an immediate bank escrow account, (ii) there were no over $25,000 federal liens on nightclub to be purchased by the joint venture escrow, and (iii) there would be fair equity in Michigan corporation(s) to be formed -- and (2) they fraudulently appropriated the joint venture

assets without forming the corporation(s) via frauds on the plaintiff and this Muskegon Circuit Court (i) that defendants actually gave full custody of their money to plaintiff, not themselves, in exchange for his short term promissory notes-memos of collateral until incorporation, (ii) that there never was said 15-years joint venture and contract between plaintiff and defendants, (iii) that defendants were only short term money lenders with a valid $20,600 promissory note-valid mortgage on nightclub real estate, (iv) that plaintiff was so stupid as to depart a lucrative career, invest his total assets, allow his phono records-music publishing assets to be stolen by Larnard and Larnard local law firm partnership, and invest 100 tedious hours weekly for 5½ years all by himself by way of solely his own decisions, not those of him, the defendants, and the Landman law firm, and (v) that defendants and their law firms never profited from taking said total assets from plaintiff

and there was and remains no need for a bona fide accounting to anyone. And said swindle put plaintiff and his two 10 years full custody minor children on California public welfare which interstate kidnapped his minor children on 6/19/71 and denied even public welfare benefits for over 3 months. And plaintiff's costly attempts to mitigate California damages were fruitless. And defendants and their Landman law firm unlawfully used plaintiff's power of attorney(s), breached contracts, fraudulently converted properties, and committed libel & slander,

e. That one of the reasons that nightclub operation under plaintiff's management and under defendants' over-management was that the area's competition at least tripled almost instantly and constantly from day one of nightclub's remodeling-opening on a shoestring for lack of working capital, and

f. The nightclub appreciated markedly during the venture.

The trial court decision-12/9/74 was contrary to law because it is against the law to convert a man's substantial properties, breach contracts via fraud, commit libel & slander, take away a man's total properties and child custodys under false pretenses, and obstruct justice. So many laws were broken that they are too numerous to list here and now and they are already listed and quoted in the record on file in this court.

4. Material evidence, which could not with reasonable diligence have been discovered and produced at the trial. The following material evidence was discovered since the trial and immediately produced into the record: Proof that all Kandy Tapes & Records Corp. (Indiana) assets were properly affiliated with American Federation of Musicians of the United States and Canada where there is no record that they were ever owned by anyone other than plaintiff to this day and where no phono record company can transfer ownership of its recordings

without going through said Federation in writing. Proof that defendant Carl Alfred Johnson, Jr. was solely to blame for the family joint venturers' allowing the Larnard and Larnard law firm to steal legal title to all 1956-1967 Kandy master recordings worth $40,000 to $1,000,000. Proof that there were bona fide federal liens on nightclub before 3/8/65 and ter, after, but they were never paid to this day because of defendants' Landman law firm's tax evasion of over $25,000 plus interest where plaintiff's power of attorney was used unlawfully. These proofs could not be produced at the trial because the American Federation of Musicians took too long to respond to plaintiff's many requests, defendant Carl-Jr's letter to plaintiff refusing to amend/correct the Larnard law firm's erroneous Kandy Tapes and Records Corp. (Michigan) name had been inadvertently lost among boxes and boxes of papers, and plaintiff had justifiably believed that now-Federal Judge Albert J. Engel, Jr. had

been telling the truth on 4/6/65 when he wrote that the abstracts of the nightclub title showed no federal liens, and plaintiff had been releived of all ownership so that he couldn't obtain the many very old abstracts without being very lucky and spending substantial time and money not available during trial but available during January and February 1982 just after plaintiff bootstrapped himself off welfare-filed over $5,000 transcripts.

5. Erro. s of law occuring in the proceedings and mistakes of fact by the court. It was error of law for Judge Piercey to deny a jury for question of damages from loss of children and deny a fair impartial trial and it was mistake of fact for Judge Piercey to rule that there never was a joint venture or joint venture contract and plaintiff had no cause of action where defendants and their conflicting interests Landman law firm took plaintiff's total properties and child custodys via fraud under false pretenses whether or not there ever

was a joint venture or joint venture contract. Judge Piercey failed to uphold the Constitution dispite his swearing that he would as he took on the position of Circuit Judge. He denied Due Process, Equal Protection, and Just Compensation. And it was mistake of fact on Dismissal-12/9/74 to pretend that plaintiff lived at an address where he never set foot.

6. On any ground warranting a new trial specified in sub-rule 528.3. After Judge Piercey denied a new trial and after fraud was discovered about 2/22/82, plaintiff entered into the record positive proof of defendants' Landman law firm's over $30,000 federal taxes evasion by way of copies of old secretly-hidden abstracts that were extremely hard to obtain. But Judge Piercey repeatedly knowingly and willfully denied plaintiff-appellant's filing any papers including another motion for a new trial up to this day including unfiled-but-preserved 'Emergency Plaintiff-Appellant's Motion For A New Or Partially-New Trial; Notice

of Hearing; Proof Of Service' with letter to Judge Piercey dated 2/1/83. See Exhibit A which is attached hereto. Plaintiff can swear under oath that he brought this letter and motion to Judge Piercey's secretary who followed Judge Piercey's orders not to set a hearing date, showed the papers to Judge Piercey, and returned them to plaintiff saying that the Judge would not allow the motion to be filed. Judge Piercey did not sign and file, or dictate to the stenographer, a concise statement of his reasons therefor and the court clerk did not notify the attorneys for both parties of the decision of the motion for a new trial - contrary to GCR 527.7, 527.8. Judge Piercey subsequently resigned from the bench.

7. On ground warranting a new trial where plaintiff-appellant has been denied Due Process-Equal Protection-Just Compensation because the tax evading conflicting interests opposing counsel defrauded the state and federal courts that appellant was not a bona fide indigent

deserving of requested suspension or waiver of meaningful transcripts cost within the GCR 806 18-months time limit. Defendants-appellees' counsel, the Landman law firm, knowingly and willfully denied plaintiff-appellant of his Constitutional basic rights by blocking attempts to timely file the materials necessary to afford his requested appeal of right on merits of trial court Dismissal-12/9/74. The record of this case and its causes show that 3 men and their huge powerful influential law firm took this plaintiff's total substantial worldwide properties and child custodys plus basic civil rights of fair trial and due process of reasonable timely access to state-established appellate court plus substantial government property -- under false pretenses. And they will get away with it unless this court grants a new or partially-new trial or some other court grants an over 18-months fraudulently-delayed appeal of right or new trial. And if the government denies Constitution-guaranteed civil rights, the government itself is guilty of

manifest injustice by failing to uphold its Constitution.

8. On ground that trial court can grant a new trial during its concurrent jurisdiction of the case during perfection of a fraudulently-delayed appeal of right until the complete record including full transcript is transmitted to appellate court pursuant to GCR 802.2(1) and before any higher court's interlocutory decisons become the law of the case.

This motion is based upon the files and records in the above-entitled action, upon the evidence and proceedings in the trial thereof, and upon plaintiff-appellant's affidavits and interlocutory proceedings to acquire either an appeal of right or a new trial.

Dated: May 3, 1983.

/s/ DONALD EDGAR JOHNSON, In Pro Per
Attorney for Plaintiff-Appellant
1742 Schuyler
Muskegon, Michigan 49441

NOTICE OF HEARING

TO: Attorney William F. McNally plus Landman
Luyendyk Latimer Clink & Robb
400 Terrace - P.O. Box 29
Muskegon, Michigan 49443

SIRS: Please take notice that this emergency motion for a new or partially-new trial will be presented at Courtroom C, 4th floor of the County Building, Muskegon, at 2:30 pm, May 13, 1983. . .

EXHIBIT A

Judge John H. Piercey

Re: Johnson v Johnson #73 C-7432 CK

Sir: Your secretary could not provide an emergency hearing date even tho your Court has concurrent jurisdiction at this date .. because of your previous 1982 orders not to accept any papers.

I request that you 1) read the attached copy of motion for a new trial, and 2) instruct your secretary to assign a hearing date of emergency status that will save my spending about $3,000 by 2/11/83. . . .

. . . Jurisdiction . . . GCR 802.2(1). Since this Court last denied a new trial on February 11, 1982, important new evidence was discovered proving . . . evaded over $30,000 federal taxes plus interest . . .

Dated: February 1, 1983

/s/DONALD EDGAR JOHNSON . . ."

5/6/83: UN-SIGNED Defendants' Landman Law Firm's Opposition To Motion For New Trial On Ground Of Frauds Upon Courts

"FILED 1983 May 10 P 2:16 (Letterhead of LANDMAN, LUYENDYK, LATIMER, CLINK & ROBB showing Muskegon, Grand Rapids, Grand Haven and Fremont, Michigan addresses/phones plus names of 49 attorneys including ML Bradbury, Jr, SH Clink, FC Culver Jr, HW Hathaway, CF Latimer, VS Laurin Jr, RA Robb, CL Hitsman, LL Landman, DR Munroe, WM Newman, JD Vander-Ploeg, WF McNally)

May 6, 1983

Hon. Ronald H. Pannucci
Muskegon County Circuit Court
Muskegon County Building
Muskegon, Michigan 49442

Re: Johnson v Johnson, et al, File No. 73-C-7432-CK

Dear Judge Pannucci:

We have received our copy of your May 4, 1983 memorandum. A review of your Circuit Court file will reveal that the judgment from which Plaintiff Johnson seeks relief was entered many years ago, and the full appellate process has been exhausted. We invite your attention to Mich GCR 527 which requires motion for new trials to be served not later than 20 days after the entry of judgment, as well as Mich

GCR 528 which, for purposes of Plaintiff Johnson's present motion, requires presentation not more than one year after the judgment was entered. Accordingly this Court has no further jurisdiction in the matter and your May 4, 1983 memorandum should be rescinded giving full effect to Judge Piercey's May 10, 1982 order to the Circuit Court Records office. We are also attaching a copy of the April 20, 1983 order of the Michigan Supreme Court denying leave to appeal.

Very truly yours,

(NO SIGNATURE)

LANDMAN, LUYENDYK, LATIMER, CLINK & ROBB
*Enclosure

cc: Mr. Donald Edgar Johnson"

5/7/83 Plaintiff's Reply
FILED 1983 May 10 P . . .
Dear Judge Pannucci:

Regarding the Landman law firm reply-5/6 to your Memo-5/4, please be advised:

1. The local Justian & Veurink law firm was retained by plaintiff-appellant on April

29, 1983 to fully represent appellant in Michigan Suprem Court 71091 and assist appellant in pro per during scheduled Hearing-5/13. And 24 copies of appellant's 'Emergency Motion For Rehearing Pursuant to General Court Rule 864" were mailed at the Post Office by 1:15 pm, May 6, to the Michigan supreme Court regarding its Order-4/20/83. And the Landman law firm was sent a copy properly.

2. This civil appellant has not fully litigated his case and cause, the full appellate process has not been exhausted, and the forthcoming Michigan Supreme Court decision can be appealed to the Supreme Court of the United States.

3. In this cause, there is no Michigan GCR 528 one year time limit: '. . .This rule does not limit the power of a court . . . to set aside a judgment for fraud upon the court. . .' (GCR 528.3).

And your Memo-5/4 should not be rescinded.

Very truly yours,
/s/ DONALD EDGAR JOHNSON, In Pro Per

Attorney for Plaintiff-Appellant

cc: William F McNally, et al, Landman Luyendyk Latimer Clink & Robb, Gary L Veurink, Justian & Veurink"

5/10/83: Trial Court Judge Pannucci Order Denying 5/13/83 Hearing Of Filed Motion For New Trial On Ground Of Frauds Upon Courts

"FILED 1983 May 10 A 10:44 . . . CIRCUIT COURT FOR THE COUNTY OF MUSKEGON . . .

The court has reconsidered the May 4, 1983, memorandum. It is therefore ORDERED that the May 10, 1982 Order signed by Judge Piercey is re-instated. The clerk is instructed to return all pleadings and fees.

Dated: May 10, 1983 /s/ Ronald H. Pannucci

Chief Circuit Judge

cc: Mrs Helen Crehan Circuit Court Records
Mr. Donald Edgar Johnson, Mr. Wm. F. McNally."

5/20/83: Affidavit of 12 Frauds Upon The Courts

". . . CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

. . . EMERGENCY REQUEST THAT THIS COURT RESCIND

ITS ORDER-5/10/83 . . . THIS PARTIALLY-LITIGATED 1973 CASE CONTESTS CUSTODY OF INTERSTATE-KIDNAPPED MINOR CHILDREN AND ALLEGES CRIMES OF DEFENDANTS-APPELLEES AND THEIR AGENTS TAKING OVER $30,000 WORTH OF GOVERNMENT PROPERTY PLUS PLAINTIFF-APPELLANT'S TOTAL SUBSTANTIAL WORLDWIDE PROPERTIES, CHILD CUSTODYS, AND BASIC CONSTITUTIONAL RIGHTS UNDER FALSE PRETENSES AND VIA FRAUDS ON STATE AND FEDERAL COURTS.

Plaintiff-appellant in pro per emergency requests that this Court rescind its Order-5/10/83, copy attached, for the following reasons:

A. Plaintiff's $10 motion fee has not been refunded to date.

B. Neither of this Court's Order of 5/10/82 or 5/10/83, that denied plaintiff's presenting a motion for a new trial on ground of fraud upon the Court, complied with GCR 527.

> 'New Trials; Amendment of Judgments. . . .
> 'Ruling on Motion. In ruling on a motion for a new trial; to amend the judgment, or for judgment notwithstanding the verdict, the judge shall sign and file,

or dictate to the stenographer, a concise statement of his reasons therefor. No exceptions need be taken to the denial of such motions.' (GCR 527.7).'

C. This paper is not labeled a motion only because of said Orders of this Court preventing the Circuit Court Records persons from issueing another $10 receipt on this day

D. During pending Michigan Supreme Court 71091 interlocutory proceedings and while the complete record, including full $5,000 transcripts, has not yet been transmitted to any appellate court, this Court has concurrent jurisdiction per GCR 802.2(1) and there is no time limit for its setting a hearing date for a motion for a new trial for fraud on Court: (GCR 528.3 is quoted with emphasis).

E. Said Order-5/10/83 condones 3 men and their agents' taking substantial government property plus a man's total worldwide substantial properties, child custodys, and basic Constitutional rights -- under false pretenses!

This is mockery of justice and the Constitution and grounds for appeal to the Supreme Court of the United States if necessary!

F. Said Order-5/10/83 should be rescinded in order that plaintiff-appellant expose the terrible inequity caused by defendants-appellees and their agents plus the following 12 frauds upon the Courts:

A F F I D A V I T

State of Michigan)
) SS
County of Muskegon)

Donald Edgar Johnson, first duly sworn, says:

That he is a bona fide crime victim and that defendants-appellees committed the following 12 frauds upon the Courts since 8/19/64 -- the last of which was first discovered about 2/22/82 and filed in this case in this Court:

1. That between 8/19/64 and 12/4/64, defendants-appellees' Landman, Luyendyk, Latimer, Clink & Robb law firm partnership did not represent plaintiff in this matter under a similar name.

2. That since 8/19/64, plaintiff never was on any joint venture with defendants and there

never was any contract between the parties, defendants never converted any of plaintiff's properties, and all of plaintiff's problems were from his own decisions.

3. That between 9/28/64 and 11/5/64 nightclub purchase, plaintiff, not defendants, had full custody of the $3,100 that defendants exchanged for plaintiff's Promissory Notes #1 and #2 that were memos of collateral only -- pending promised incorporation/reorganization.

4. That on 3/8/65, there were no $25,000-plus federal liens on the Seaway-Hoyt Muskegon Heights land parcel as purchase was in early stages of nightclub real estate.

5. That on 4/15/65, defendant Carl-Jr returned plaintiff's said Note #2 to plaintiff in consideration for equity in plaintiff's new $20,600 promissory note which defendants, not then-all-parties' Engle & Engel law firm, possessed.

6. That on 4/16/65 and since, defendants and/or Harry E. Gibson possessed a valid $20,600 plaintiff's Promissory Note and a

valid mortgage on said Seaway-Hoyt land parcel.

7. That on 6/22/70, plaintiff deliberately defaulted defendants' foreclosure proceedings by plaintiff's knowingly and willingly failing to appear in this Court personally or by his agents who were then a) his father, defendant Carl-Sr, and b) his then-lawyer (also all parties') William Hipkiss.

8. That since refusing to form a promised Michigan corporation about 4/9/70 and subsequently taking all assets of the venture, defendants never profited from taking plaintiff's worldwide assets between 8/19/64 and this date.

9. That during February, 1971, said land parcel was still in plaintiff's name and plaintiff was still paying taxes on it personally.

10. That by 12/9/74, plaintiff had rested his case, had no cause of action, and lived at 4984 Grand Haven Road, Muskegon.

11. That before, during, and since the 18 months after Judgment-12/9/74 of this Court sought to be appealed, plaintiff-appellant

in pro per was never a bona fide indigent deserving of requested GCR 120 waiver or suspension of transcript cost or hearing to settle facts.

12. That plaintiff-appellant fully litigated his case and exhausted the appellate process years ago in these state courts.

Further affiant sayeth not.

/s/ Donald Edgar Johnson

Subscribed and sworn to before me on May 20, 1983. /s/ James E. Shields, Jr., Notary Public, Muskegon County, Michigan. My Commission expires 2/1/87.

WHEREFORE, this plaintiff-appellant respectfully requests this supposedly Constitution-abiding Muskegon Circuit Court to rescind its Order-5/10/83 and immediately set a hearing date as requested since 5/2/83.

Dated: May 20, 1983. /s/ DONALD EDGAR JOHNSON, In Pro Per, Attorney for Plaintiff-Appellant, 1742 Schuyler, Muskegon, MI. 49441.

PROOF OF SERVICE

. . . Donald Edgar Johnson, first duly sworn, says that on 5/20/83, he served a copy of this Emergency Request to the following by prepaid first class mail or personal delivery: William F. McNally, attorney for defendants-appellees, Judge Ronald H. Pannucci, Judge R. Max Daniels, Judge James M. Graves, Jr., Judge Michael E. Kobza, Circuit Court Records, County Prosecutor Gerald Warner, and Attorney Gary L. Veurink. /s/ Donald Edgar Johnson.

Subscribed and sworn to before me on May 20, 1983. /s/ James E. Shields, Jr., Notary Public, Muskegon County, Michigan. My Commission expires 2/1/87."

9/1/83 Defendants' Landman Law Firm Split Into Two Law Firm Partnerships -- One Just Upstairs From The Other

"We Are Pleased To Announce The Formation Of CULVER, LAGUE & McNALLY Attorneys at Law, 500 Terrace Plaza Building, Muskegon, Michigan 49443. Telephone 725-8148. Fred C. Culver, Jr., Richard C. Lague, William F. McNally, David R. Munroe, William M. Newman."
(11/6/83 Muskegon Chronicle ad and article).

11/29/83 Plaintiff Proposed A U.S. District Court Judgment Of Attempted Removal Of Cause

(This Is The Proposed Judgment)

"On 7/15/83, the plaintiff brought a pro se emergency interlocutory petition for removal of a cause for criminals prosecution seeking injunctive relief of a proper meaningful delayed appeal of right of a county trial

court 12/9/74 Dismissal or a hearing of plaintiff's 5/2/83 motion in trial court for a new trial on ground of frauds upon the court, and over $10,000 damages allegedly sustained as a result of defendants and their counsel's over 8 years conspiring and depriving, under false pretenses-frauds upon the courts-color of State law, plaintiff of his Constitutional rights of Equal Protection of laws for the poor and Due Process of a fair trial, an impartial timely appeal on the merits utilizing the courts-required full transcript belatedly provided by indigent plaintiff, or as hearing of a motion for a new trial on ground of frauds upon the courts. The plaintiff made affidavit that from prejudice and local influence he believed that he would not be able to obtain justice in the State courts, that the State courts refused jurisdiction of this separate cause which included uncovering of defendants and their counsel's Federal tax evasion showing motivation

for their obstructing the due course of justice and that he believed that his cause should be first reviewed by the appropriate Federal district court before going to the overloaded Supreme Court of the United States from a Michigan Supreme Court jurisdiction-refusing 6/23/83 decision. The defendants included the same 3 individual defendants named in plaintiff's main 1973 pending civil case from which plaintiff seeks to remove this cause. And plaintiff alleges that defendants' counsel, a law firm partnership, should be a necessary defendant. On defendants' motion to dismiss, this Court holds inter alia that the allegations set forth in plaintiff's pro se pleadings are to be construed in the light most favorable to the pleader and accepted as true; that plaintiff complied with procedure for removal via the still-valid express provision of Act 1887-88 § 2 of Congress which was never nullified by any subsequent statutes including 23 USC § 1441(a) plus oblique references to 28 USC §§ 1441(a)(c),

1443, 1446(a)(b)(c)(e); that this Court has original jurisdiction of this cause pursuant to 28 USC §§ 1331(a), 1343; that plaintiff has stated a claim upon which relief can be granted under 18 USC §§ 241, 271, and 42 § 1985(2)(3) by alleging that defendants and their counsel (a) took plaintiff's total substantial properties /liberties plus substantial U.S. property under false pretenses, and (b) acted willfully and wantonly in bringing, prosecuting, and refusing to dismiss their 8 years criminal conspiracy to obstruct the due course of justice by (i) actually preventing the State from performing its Constitutional duties, and (ii) actually depriving this plaintiff, a member of a class of bona fide indigents, of his basic Constitutional rights of Equal Protection of laws for the poor and Due Process of reasonable timely access to and actually receiving a timely-requested meaningful appeal of right on the merits or a hearing of a motion for a new trial on ground of frauds upon the courts, under various false pretenses, frauds upon the

courts, and color of State laws GCR 120, 527.7, 528.3, 802.2(1), and 806.2(5) - contrary to Constitution Amendments 1, 5, 14; that all States and Federal courts decisions since 12/9/74 were interlocutory and not res judicata as plaintiff sought the Equal Protection of laws and Due Process that he has yet to receive; that defendants' motion to dismiss is denied; that defendants and their 12/8/74-7/15/83 counsel, including the Landman, Luyendyk, Clink & Robb law firm partnership, shall answer plaintiff's Request For Admissions on Page 11 within 30 days; and that this case's Docket Sheet shall indicate that a trial by jury has been timely requested.

DEFENDANTS AND LANDMAN LAW FIRM
DID WRONGFULLY EVADE
OVER $30,000 IN FEDERAL TAXES

AFFIDAVIT IN SUPPORT . . . This affidavit is made for the purpose of showing that plaintiff's allegations and issues are not frivolous in order to help this Court deny defendants' motion to dismiss. . .

PROOF OF SERVICE . . . Service of a copy of this 3rd Supplement has been made on defendants, Chiefs of Landman law firm, William F. McNally, the U.S. District Attorney, the Chief of the F.B.I. in Grand Rapids, the Attorney Grievance Commission in Detroit, and the Chief, Criminal Investigation Staff Internal Revenue Center, Cincinnati, Ohio, by prepaid first class mail. . . ."

3/30/84 Since 1950, Landman Law Firm Kept Changing Its Name Slightly To Attempt To Escape Liability

"In 1950, he formed a law partnership with H. Winston Hathaway, Charles Latimer and Stephen H. Clink. Richard A. Robb joined the firm as a partner in 1954. In 1962, Landman founded the firm of Landman, Grimm, Bradbury & Laurin. The two firms merged in 1969. Ten years later the firm merged with Luyendyk, Lainer, Hathaway and DeJong of Grand Rapids to become Landman, Luyendyk, Latimer, Clink & Robb. Today, that firm has 26 partners and offices in Grand Haven, Fremont, Grand Rapids and Muskegon." (3/30/84 Muskegon Chronicle).

3/1/85 Landman, Luyendyk, Latimer, Clink & Robb Became LANDMAN, LATIMER, CLINK & ROBB. (3/10/85 Muskegon Chronicle).

GCR 120

". . . .2 Suspension of Fees and Costs For Persons Receiving Public Assistance. Upon any person submitting to the clerk of the court an affidavit that he is then receiving any form of public assistance, the payment of all fees and costs as to that person in the action, required to be paid by law or court rule, shall thereupon be suspended

.3 Waiver Or Suspension Of Fees And Costs By Court For Indigent Persons. In instances where the person is not receiving public assistance, the court shall order waiver of the payment of all fees and costs as to a person in the action required to be paid by law or court rule, or shall order the suspension of the payment of those fees or costs until the conclusion of the litigation upon that person submitting

to a judge of the court an ex parte affidavit stating facts showing that person's inability to pay those fees and costs because of indigency."

GCR 528 Relief From Judgment Or Order

.1 Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

.2 Defendant Not Personally Notified. Any defendant over whom personal jurisdiction was necessary and acquired but who did not in fact have knowledge of the pendency of the action

may, at any time within a year after final judgment, enter his appearance, and if he shows reason justifying relief from the judgment and innocent third persons will not be prejudiced, the court may relieve him from the judgment, order, or proceedings as to which personal jurisdiction was necessary, on payment of such costs thereon or such creditors as the court deems just.

.3 Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under sub-rule 527.2; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other

misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment order or proceeding was entered or taken. A motion under sub-rule 528.3 does not affect the finality of a judgment of suspend its operation. **This rule does not limit the power of a court** to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in sub-rule 528.2 above, or **to set aside a judgment for fraud upon the court.** Writs of coram nobis,

coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action." (Emphasis Added).

GCR 806 Appeals By Right And By Leave

". . . .2 Appeal by Leave. The Court of Appeals may grant leave to appeal from: . . .

(5) Such other matters as are provided by the rules of the Supreme Court or other laws.

In no event shall leave to appeal be granted later than 18 months from the entry of the order or judgment appealed from in any civil matter. . . ."